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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/825,176 | 04/03/2001 | James D. Mitchell JR. | 029079.0001 | 1675 |

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EXAMINER

PETRAVICK, MEREDITH C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3671

DATE MAILED: 11/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,176

Applicant(s)

MITCHELL, JAMES D.

Examiner

Meredith C Petravick

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 13-15 is/are allowed.
- 6) ☐ Claim(s) 1-12, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 states, "the trimming capability of the trimming attachment extends beyond the dimensions of the motorized trimming means." It is unclear how the trimming attachment can extend the capabilities of its only motorized trimming means. For the purpose of examination on the merits it is assumed that the capabilities of the motorized trimming means extends beyond the dimensions of the lawn maintenance vehicle.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

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4. Claims 1, 3, 5-9, 11-12 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Skovhoj 4,663,920.

Skovhoj discloses the claimed invention including:

- an integral frame member (210) which could be removed
- a pivot arm (192) for inducing lateral movement
- a motorized trimming means (193)
- means for automatically adjusting the vertical height of the motorized trimming means
- a control lever (230)

In regards to claim 3, the pivot arm is connected to the frame by a pivot pin (208).

In regards to claim 5, the trimming means is powered by hydraulics (Column 4, lines 39-43).

In regards to claim 6, the reach of the trimming means extends beyond the lawn maintenance vehicle.

In regards to claims 7 and 8, the control lever is operated by hand and can also inherently be operated by foot.

In regards to claims 9, the control lever is connected to the pivot arm by a connecting rod (226).

In regards to claim 11-12, the means for automatically adjusting the vertical height includes the pivot arm having first and second portions connected by a pivoting connection with at least one pivoting member (200).

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5. Claims 1-4, 6-8, 10-12 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Lane 6,094,896.

Lane discloses the claimed invention including:

- a removable frame member (16)
- a pivot arm (18) for inducing lateral movement connected to the frame at a pivot point (Column 3, lines 62-65)
- a motorized trimming means (10)
- means for automatically adjusting the vertical height of the motorized trimming means (17, 29)
- a control lever (top of 24)

In regards to claim 2, the frame member is bolted to the lawn maintenance vehicle (Fig. 1).

In regards to claim 3, the pivot arm is connected to the frame by a pivot pin (Fig. 3).

In regards to claim 4, the motorized trimming means is powered by electricity (Column 4, lines 39-53).

In regards to claim 6, the trimming means extends beyond the dimension of the lawn maintenance vehicle.

In regards to claims 7 and 8, the control lever is operated by hand and can also inherently be operated by foot.

In regards to claim 9, the control lever is connected to the pivot arm by a cable (24).

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In regards to claim 11-12, the means for automatically adjusting the vertical height includes the pivot arm having first and second portions connected by a pivoting connection with at least one pivoting member (Fig. 3).

Allowable Subject Matter

6. Claims 13-15 are allowed.

Response to Arguments

7. Applicant's arguments filed 9/3/02 have been fully considered but they are not persuasive.

Applicant filed an amendment on 4/3/01 and amended claims 1, 6, 13, 17 and 18 and argued that 1) that element 16 of Skovhoj is not a frame member but a drive shaft and 2) that Lane does not show the trimmer moving laterally.

In response to the amendment, claim 16 is canceled, claims 13-15 are allowed and claims 1-12 and 17-18 remain rejected for the reasons below.

First, applicant states, "The Examiner has indicated that Skovhoj discloses a removable frame member at element 16, however, element 16 is actually a drive shaft (col. 2, line 15) and is not a removable frame member." The Examiner agrees that element 16 is a drive shaft, however the Office Action mailed on 3/27/2000 does not indicated that element 16 of Skovhoj is the removable frame member. The Office Action indicates that the removable frame member is element 210. See paragraph 5 of the Office Action.

Second, Applicant argues that Lane does not show the trimmer moving laterally. Figure 1 of Lane shows the trimmer attachment in the operating position and Figure 3 of Lane show the trimmer in the non-operating position. As shown in these two figures, the trimmer moves laterally on the pivot arm.

Also, claim 6 was rejected under 35 U.S.C. 112, 2nd paragraph. Applicant amended claim 6. However, claim 6 as amended is again rejected under 112, 2nd.

Therefore, for the reasons given above, the claims 1-12 and 17-18 remain rejected.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

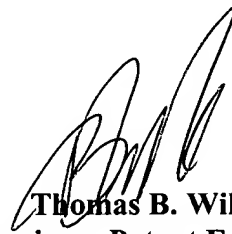
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047.

The examiner can normally be reached on Monday-Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

MCP
November 4, 2002